



## DEPARTMENT OF AGRICULTURE AND MEASUREMENT STANDARDS

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# KERN COUNTY PESTICIDE USE ENFORCEMENT WORKPLAN FOR 2007/2008

## PESTICIDE USE ENFORCEMENT RESOURCES:

### Personnel

- 8 full time Agricultural Biologist III @ 100%
- 1 full time Agricultural Biologist III @ 75%
- 1 full time Agricultural Biologist III @ 50%
- 1 full time Supervising Agricultural Biologist IV @ 95%
- 1 Deputy Agricultural Commissioner/Sealer @ 95% (vacant since February 2006)
- 2 of our Agricultural Biologist III's are bilingual in Spanish and are compensated by the County of Kern for their bilingual skills.
- All staff is centrally located in our Bakersfield Office and report directly to the Supervising Biologist IV and Deputy.
- We currently have one vacant Biologist position.
- Each of our PUE staff is fully licensed, trained and experienced, with the exception of one recent hire. Pesticide Use Enforcement experience ranges from 3 months to 27 years.
- Each PUE Biologist is a subject matter expert in one or more areas of pesticide enforcement (except for one recent hire).

### Other Assets:

- Each PUE Biologist, Supervisor and Deputy has a radio equipped vehicle for his/her exclusive use.
- Each PUE Biologist, Supervisor and Deputy has a cell phone for his/her exclusive use.
- Each PUE Biologist, supervisor, deputy and clerical has a dedicated computer workstation with individual email and Internet access.
- In addition, we have a PUE duty workstation and 4 dedicated workstations for permit issuance. (Permits can also be issued at each person's individual workstation)

## CORE ENFORCEMENT PROGRAM

### A. Restricted Materials Permitting

**Expected Workload 2007/08** (based on past experience and current changes)

- Restricted Material Permits - 1,921

- Operator ID's - 64
- Notices of Intent - 10,165
- Total Agricultural Production Sites Issued - 13,109

### **Goal**

- Protect the people of Kern County in occupational and non-occupational settings and their environment, while allowing safe and effective pest control operations.

### **Permits Issuance**

- Restricted Material Permits are issued for one year or less to the operator of the property to be treated. Permit sites are evaluated prior to the issuance of the permit utilizing our Geographic Information System (GIS) with an automatic check for sensitive areas.
- Each site to be issued is identified in GIS down to the field level using aerial imagery and prior year site boundaries. Residential areas, schools, churches, waterways, parks, and other sensitive areas are noted on permit maps we produce using GIS, to assist in evaluating sites to determine if a substantial adverse impact may result from restricted material applications. Surrounding crops are updated on a daily basis. Feasible alternatives to restricted pesticides are considered and implemented when appropriate.
- The Biologists ensure that permit applicants are qualified and have met the requirements to hold a restricted materials permit. Private applicators and qualified applicators are verified and listed on the permit. If the operator of the property is not available to sign the permit, the authorized representative is allowed to sign with the proper documentation giving him or her authority to do so.
- Permits are issued using the Restricted Material Management System (RMMS), which allows instant access to the permittee's pesticide use report history, down to the site level if needed. If reporting inadequacies are noted, permits are withheld until the issue is resolved and compliance action evaluated.
- Permits are issued by licensed and qualified staff whose experience ranges from 3 months to 27 years in the area of pesticide use enforcement. From mid-December through the beginning of February, as many as five PUE Biologists are assigned to the office to handle permit issuance. Annual training on the policies and procedures used to issue permits and properly identifying sites is given by the PUE Deputy, Supervising Biologist IV and/or the DPR Enforcement Branch Liaison.

### **Area Needing Improvement**

- An internal review of Restricted Material Permits discovered that several non-ag permits were issued to certified private applicators. A qualified applicators certificate or qualified applicators license is required for non-ag permits.

### **Deliverables**

- Provide staff training prior to permit issuance season and address certification requirements.
- Update sensitive area layer and document environmentally sensitive areas on permit maps.
- Review pesticide permits for accuracy.
- Notify non-ag permit holders of the correct certification requirements.

## **Site Monitoring Plan**

- Notices of Intent (NOIs) are recorded on the appropriate form and are received via fax, mail, voice mail and walk-ins. A minimum of one PUE Biologist is assigned to the office on a daily basis. This PUE office duty person reviews all NOIs for accuracy and completeness using RMMS and specific GIS sensitive area tools. They are then assigned to the appropriate “area.” The county is divided into four “areas” and two PUE Biologists are assigned to each of these areas. PUE Biologists also perform weekend duty, Saturday, Sunday and Holidays to ensure timely review of NOIs.

## **NOI Monitoring**

- The PUE Biologists assigned to the four areas within the county review the NOIs and determine which of the proposed applications is in need of pre-application inspection. This decision is based on many factors, such as the surrounding environment, distances to sensitive areas (residential areas, schools, parks, etc.), historical complaint areas, application method (air/ground), pesticide formulation (fumigant, liquid, dust), pesticide used, commodity, and applicator. A pre-application site inspection is performed on at least 5 % of all NOIs. Nearly all fumigant (metam sodium, etc.) applications near sensitive sites are inspected, assuring the buffer zones are both accurate and adequate and that other mitigating conditions are being complied with.

## **Deliverables**

- Pre-application site inspections on a minimum of 5% of notices of intent received.
- Make Metam Sodium and other fumigant applications a priority for pre-site inspection.
- Pre-site aerial applications of any restricted material near sensitive areas.
- Pre-site cotton defoliation applications near sensitive areas.

## **Expected Program Changes (general terms)**

- Annual update of our sensitive area layers within GIS prior to permit issuance with verification of residential area growth and other changes.
- Updating RMMS software, as resources allow.

## **B. Compliance Monitoring**

### **Expected Workload**

- Field Worker Safety Inspections - 91
- Pesticide Use Monitoring Inspections - 161
- Pesticide Mix-Load Inspections - 50
- Structural Inspections - 59
- Records Audits - 83
- Investigations - 57
- Pre Application Site Inspections - 692
- Pest Control Business, Advisor and Farm Labor Contractor and Structural Pest Control Registrations - 908

### **Goal**

- Conduct compliance-monitoring activities to reduce the risk of harm to people working in occupational and non-occupational settings and provide environmental protection.

### **Comprehensive Inspection Plan**

- Pesticide Use Monitoring inspections are conducted on growers and Pest Control Businesses. We prioritize these inspections based on our experience with compliance and the potential hazard posed by the application. Method of application, material being applied, compliance history of the applicator, proximity to sensitive areas and other criteria guide our decision to inspect.
- Field Worker Safety inspections are conducted only in fields where there has been a pesticide application in the past 30 days. This concentrates our resources on fields with the highest possibility of hazard. We also consider proximity to other treated fields, compliance history of the employer and the potential for field worker exposure to treated surfaces.
- Records Audits and headquarter inspections are conducted as a follow-up for all inspections where violations are discovered. In addition, we audit pest control businesses, pesticide dealers and pest control advisors every third year.
- Weekly staff meetings are scheduled for coordination, dissemination of new information and “tailgate” training sessions.
- DPR-produced compliance aids such as “It’s as simple as PPE (Please Protect Employees)” and “What to say before you spray” will be distributed during inspections and headquarters inspections where appropriate.

### **Timely Initiation and Completion of all Non-Priority Investigations**

- We will exceed DPR established standards for beginning non-priority investigations.

### **Timely Priority Episode Initiation and Reporting**

- DPR’s established standard for beginning priority investigations is that all priority investigations will be initiated as soon as possible and within 48 hours of notification. We will begin all priority investigations as soon as possible and within 24 hours of notification.
- We will follow DPR timelines for completion of investigations, including requesting extensions when that becomes necessary.

### **Development and Use of Investigation Plan**

- We will use the Kern County Hazardous Material Incident Response Plan and an investigation plan during all incident response activities.
- We will use the “Responding to Non-Occupational Pesticide Use-Related Exposure Episodes” guidance documents for those incidents that meet SB 391 criteria.

### **Thorough Report Preparation**

- An extensive review program conducted by the Supervising Biologist and Deputy will ensure thorough report preparation.

### **Expected Program Changes (general terms)**

- We will shift emphasis from mix/load, structural and maintenance gardener inspections to inspections with potential to mitigate drift incidents; that is, those inspections monitoring pesticide applications near crops and field worker safety inspections.
- 25% increase in Field Worker Safety inspections with resultant cuts in inspections on Structural Pest Control and Maintenance Gardeners.

## **Deliverables**

- Target pre-application site inspections and use monitoring inspections of Metam Sodium and other fumigants within ½ mile of sensitive areas.
- Target pre-application site inspections of aerial applications near sensitive areas.
- Comply with DPR's Inspection Procedures Manual.
- Timely response and completion of all priority and non-priority investigations.
- Timely response and completion of all complaint investigations.
- Comply with DPR's Investigation Procedures Manual.

## **C. Enforcement Response**

### **Expected Workload (based on past experience and current changes)**

- Agricultural Civil Penalties - 51
- Structural Civil Penalties - 3
- Cases Referred to DPR or District Attorney - 0
- County Registration Actions - 0
- Violation Notices - 58
- Outreach Sessions - 30

### **Goal**

- To protect the public and environment of Kern County by taking timely, effective, and fair enforcement action against pesticide violators.

### **Fair, Consistent and Timely Enforcement Response**

- Each PUE Biologist conducts their own investigations, writes up their episode investigations and prepares a complete enforcement case file with supporting documentation. Consistency and quality control is assured through extensive review by the Supervising PUE Biologist and PUE Deputy.
- We will monitor each incident investigation and write-up to insure that we meet DPR established time-lines for completion.
- All compliance and enforcement action decisions will be based on the DPR Pesticide Enforcement Response Regulation.

### **Respond to All Violations**

- Each violation will be documented with a violation notice and/or and enforcement action consistent with Pesticide Enforcement Response Regulation.

### **Match Response to the Violation to Provide Sustained Compliance**

- Each violation will be documented with a violation notice and/or an enforcement action consistent with the Pesticide Enforcement Response Regulation.
- The history of each entity violating laws or regulations will be considered prior to the issuance of any compliance or enforcement action.
- The compliance history for each permit holder, PCA, PCB, etc. will be maintained in a separate "compliance file" to facilitate timely and complete review of each entity's compliance history.

### **Expected Program Changes (general terms)**

- Kern County will follow the Enforcement Response Regulation. This will result in an increase in the number of enforcement actions taken. The amount of the proposed fine for each enforcement action will increase. This combination of more actions at higher penalties will provide increased deterrence for the violator and the entire regulated community.
- Continue outreach to communicate the changes in our Pesticide Enforcement Response.

### **Deliverables**

- Conduct follow-up inspections when violations are discovered.
- Compliance history will be reviewed before initiating compliance or enforcement action.
- Comply with Enforcement Response Regulations when initiating enforcement action by classifying the type of violation, determining appropriate action and using progressive enforcement.

### **D. Pilot Project to Protect Agricultural Workers**

#### **Expected Workload**

- Unknown at this time. Will be dependant upon the extent of conflict resolution.

#### **Goal**

- The goal of this pilot project is to increase the level of communication between members of the agricultural community of Kern County, with the intent of reducing the risk of pesticide drift exposure to agricultural workers

#### **Implementation**

- The pilot project is designed to provide the Kern CAC and permittees with information not currently available regarding the planned presence of agricultural workers. The project will apply to a specific portion of Kern County and will entail an active notification element to be administered by the Kern CAC. When an NOI for the use of a restricted material in production agriculture is submitted, the Kern CAC will notify adjacent permittees utilizing existing Permit information and GIS database with additional technology upgrades. The Kern CAC will also send the permittee filing the NOI a list of the adjacent permittees whom the commissioner notified. The current requirement for a 24-hour notice of intent to the Kern CAC will be changed to 48 hours in order to allow timely notification to adjacent permittees.

#### **Deliverables**

- Require 48-hour notice of intent for production agriculture restricted materials applications in the pilot project area.
- Notify agricultural neighbors of impending production agriculture restricted materials applications in the pilot project area
- Provide the permittee filing the notice of intent with a list of adjacent permittees whom the Kern CAC notified in the pilot project area.
- Provide conflict resolution in the pilot project area.